# PART IV

## Section—1-B

### CENTRAL ACTS AND ORDINANCES

## NOTIFICATION.

(LAW DEPARTMENT).

No. LAW 88 LCA 65, Bangalore, dated 2nd November 1965.

Ordered that the Representation of the people (Second Amendment) Act, 1965 (Central Act 17 of 1965) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 1, dated the 23rd September 1965, be re-published in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

B. RAMACHANDRA RAO,
*Under Secy. to Govt., I/c., L. D.*

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Assented to on 22nd September 1965, Act No. 17 of 1965.

## THE REPRESENTATION OF THE PEOPLE (SECOND AMENDMENT) ACT, 1965

AN

## ACT

*further to amend the Representation of the People Act*, 1951.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

**1. Short title.**—This Act may be called the Representation of the People (Second Amendment) Act, 1965.

**2. Insertion of new Chapter and sections after section 145.**—In Part VIII of the Representation of the People Act, 1951 (43 of 1951), after section 145, the following Chapter and sections shall be inserted, namely:—

"CHAPTER IV

*Powers of Election Commission in connection with Inquiries as to Disqualifications of Members*

**146. Powers of Election Commission.**—(1) Where in connection with the tendering of any opinion to the President under article 103 or, as the case may be, under sub-section (4) of section 14 of the Government of Union Territories Act, 1963 (20 of 1963), or to the Governor under article 192, the Election Commission considers it necessary or proper to make an inquiry, and the Commission is satisfied that on the basis of the affidavits field and the documents produced in such inquiry by the parties concerned of their own accord, it cannot come to a decisive opinion on the matter which is being inquired into, the Commission shall have, for the purposes of such inquiry, the powers of a civil court, while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of any document or other material object producible as evidence;

(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public record or a copy thereof from any court or office;

(*e*) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall also have the power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in

force, to furnish information on such points or matters as in the opinion of the Commission may be useful for or relevant to, the subject matter of the inquiry.

(3) The Commission shall be deemed to be a civil court and when any such offence, as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code (45 of 1960.), is committed in the view or presence of the Commission, the Commission may after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898 (5 of 1898), forward the case to a magistrate having jurisdiction to try the same and the magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 482 of the Code of Criminal Procedure, 1898.

(4) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code.

**146A. Statements made by persons to the Election Commissions.**—No statement made by a person in the course of giving evidence before the Election Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement :

Provided that the statement—

(*a*) is made in reply to a question which he is required by the Commission to answer, or

(*b*) is relevant to the subject-matter of the inquiry.

**146B. Procedure to be followed by the Election Commission.**—The Election Commission shall have the power to regulate its own procedure (including the fixing of places and times of its sittings and deciding whether to sit in public or in private).

**146C. Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Commission or any person acting under the direction of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of the foregoing provisions of this Chapter or of any order made thereunder or in respect of the tendering of any opinion by the Commission to the President or, as the case may be, to the Governor or in respect of the publication, by or under the authority of the Commission of any such opinion, paper or proceedings.".

R. C. S. SARKAR,
*Secy. to the Govt. of India.*